

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

NATIONAL PASTEURIZED EGGS, LLC,
Plaintiff-Appellee,

v.

L. JOHN DAVIDSON,
Defendant-Appellant.

2012-1386

Appeal from the United States District Court for the
District of New Hampshire in case no. 07-CV-0103, Chief
Judge Joseph N. Laplante.

ON MOTION

Before BRYSON, LINN, and REYNA, *Circuit Judges.*
LINN, *Circuit Judge*

ORDER

L. John Davidson moves without opposition for the
court to transfer this case to the United States Court of
Appeals for the First Circuit.

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Davidson filed a notice of appeal in the United States District Court for the District of New Hampshire, requesting review by the First Circuit of an order that denied a motion to alter the district court's judgment. However, perhaps because the underlying case involves patents, the district court clerk's office transmitted the notice of appeal to this court. Fed. R. App. P. 3(d)(1) states that the clerk of the district court "must promptly send a copy of the notice of appeal and of the docket entries ... to the clerk of the court of appeals named in the notice."

Because of the mandatory language of Rule 3(d)(1), we believe we must transfer this appeal to the First Circuit, i.e., the clerk of the district court was required to send the notice of appeal to that court. Although we do not address jurisdiction, the case appears to involve ownership of patents rights and contract interpretation. *See Lockett v. Delpark, Inc.*, 270 U.S. 496, 46 S.Ct. 397, 70 L.Ed. 703 (1926).

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted. The case is transferred to the United States Court of Appeals for the First Circuit.

(2) All other motions are denied as moot.

FOR THE COURT

/s/ Jan Horbaly
Jan Horbaly
Clerk

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ISSUED AS A MANDATE: JAN 03 2013